

Endorsement No. 2450, dated the 30th October, 1987

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of Industrial Disputes Act.

K.K. DODA,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab/9105. In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s (i) Sardana Brothers Pvt. Ltd., 4/14-A, Aggarwal House, Asaf Ali Road, New Delhi (ii) Yamuna Gases (Ltd.) Sardana Nagar, Ambala Road, Jagadhri.

BEFORE SHRI K.K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 119 of 1986

between

SHRI RAMSHOBHIT SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S SARDANA BROTHERS PVT., LTD., 4/14-A, AGGARWAL HOUSE, ASAF ALI ROAD, NEW DELHI ; (ii) M/S YAMUNA GASES (LTD.), SARDANA NAGAR, AMBALA ROAD, JAGADHRI

Present :- W.R. Shri S. Sharma.

M. R. Shri Sunil Sharma with Shri P. R. Kaushal, Personnel Officer for respondents No. 2 & 3.

#### AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Ramshobhit Singh, workman and the respondent management of M/s Sardana Brothers Pvt., Ltd., 4/14-A, Aggarwal House, Asaf Ali Road, New Delhi ; (ii) M/s Yamuna Gases Ltd., Sardana Nagra, Ambala Road, Jagadhri to this Court for adjudication :--

Whether the termination of services of Shri Ramshobhit Singh is justified and in order ? If not, to what relief is he entitled ?

2. Workman's case stated in his claim statement, dated 2nd September, 1986 is that he worked with the respondent management for 3 years as Electrician. but was terminated on 21st March, 1986 illegally and without any justification. He gave to understand that he and other workmen had formed a union which perturbed the management and he was asked to quit from the union. When he did not agree to do so then he was turned out. He prayed for reinstatement with continuity in service and full back wages.

3. The management of M/s Densons Engineering and Yamuna Gases contested in terms of written statement filed on 13th November, 1986. They stressed that the claimant was not at all employed by them Demand notice, dated 20th April, 1986 and 7th April, 1986 stated in the claim statement were received and information regarding formation of union was also received. They denied all the allegations made by the workman.

4. Following issues were laid down on 17th December, 1986 by my learned predecessor for decision :--

(i) whether termination of services is unjustified and illegal ? If so, its effect ? (OPA).

(ii) Relief ?

This case came up before me for the first time on 6th August, 1987. On 19th August, 1987, workman's representative had given up claim against the respondent management of M/s Sardana Brothers Pvt. Ltd., Jagadhri. The name of Sardana Brothers was accordingly struck off from the array of respondents.

6. Today, Shri P. K. Kaushal, Personnel Officer, of M/s Densons Engg., Jagadhri made a statement stating that the workman Shri Ramshobhit Singh had been again taken up on job on 1st October, 1987. Workman's representative Shri Rajinder Sharma made a statement that the workman was fully satisfied and he did not want to pursue his claim under this reference. Further, that the workman did not want to produce any evidence.

7. Because the workman, having been again taken on job, is satisfied and he does not want to pursue his claim under this reference therefore, it is manifest that there is now no dispute between the workman and the management of the respondents. Thus, reference in question, has become infructuous and it is also answered accordingly.

Dated : The 27th October, 1987.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.  
(Camp at Jagadhri Yamunanagar)

Endorsement No. 2451, dated 30th October, 1987

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under section 15 of Industrial disputes Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.  
(Camp at Jagadhri Yamunanagar).

No. 9/1/87-6Lab./9106.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s The Ambala Co-operative Bank Ltd., Ambala City.

BEFORE SHRI K.K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA.

Reference No. 201 of 1985

between

SHRI KRISHAN KUMAR, WORKMAN AND THE RESPONDENT-MANAGEMENT  
OF M/S THE AMBALA CENTRAL CO-OPERATIVE BANK LTD.,  
AMBALA CITY.

#### AWARD

In exercise of the powers conferred by clause(c) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Krishan Kumar, workman and the respondent-management of M/s The Ambala Central Co-operative Bank Ltd., Ambala City to this Court for adjudication :—

Whether the termination of Shri Krishan Kumar, is justified and in order? If not, to what relief is he entitled?

2. The case of the workman Shri Krishan Kumar, in brief, is that he had been under the employment of The Ambala Central Co-operative Bank Ltd., Ambala City as a Secretary from 1st June, 1982 to 18th September, 1983. He alleged that he was terminated on 8th September, 1983 illegally and without any justification. Asserted that his work and conduct during the Course of his employment was satisfactory. He prayed for reinstatement with continuity of service and full back wages.

3. Management contested the claim of the workman in the terms of written statement, dated 3rd September, 1985. Pleaded that the workman was appointed on contractual basis. On the expiry of the contract period his services stood automatically terminated. Appointment of the workman was temporary on *ad hoc* basis and also on the terms and conditions laid in the appointment letter. The workman had filed affidavit, confirming and agreeing to the terms and conditions of the appointment letter. The management raised objection that the Labour Court has no jurisdiction in view of latest amendment in the Haryana State Co-operative Societies Act, 1984.—

4. The workman filed replication contradicting the pleas taken by the management and reiterated his claim

5. Following issues were laid down on 20th September, 1985 by my learned predecessor for decision:

(i) Whether termination order, dated 18th September 1983, is justified and in order? If not, its effect (OPM)

(ii) Whether Labour Court has no jurisdiction to try this case ?

(iii) Relief ?

6. Management examined Shri Satish Kumar, E.O. on 7th January, 1987 and tendered in evidence documents Ex. M-1 to M-17. Workman appeared in his own evidence on 31st March, 1987.

7. This case came up before me for the first time on 7th August, 1987 when it was pending for arguments.

8. Shri Rajeshwar Nath represented the workman and Shri Gian Grewal represented the management.

9. At last, better sense prevailed upon the parties and there happened to be an amicable settlement between the parties.

10. The learned representative of both the parties admitted at the bar that, in view of law laid down in 1986. Lab. I.C., Sonapat Sugar Mills *versus* Presiding Officer, Labour, Court, Rohtak; page 1916; Labour Court has got jurisdiction to adjudicate upon this reference under the Industrial Disputes Act, 1947.

11. Management has agreed to take the workman, Shri Krishan Kumar back into service without back wages but with all other service benefits and continuity of service on the same terms and conditions on which he (workman) was in service prior to his termination from the banks service. Further gave to understand that the workman would be taken back in service w.e.f. 2nd November, 1987 or from the date when the workman joins, whichever is later. Statement of Shri Darb Singh, Estt. Officer, has been recorded. Statement of the workman has also been recorded. Shri Darb Singh placed on record letter Ex. M-1 and M-2 duly signed by the Managing Director Ambala Central Co-operative Bank, Ambala City. The workman Shri Krishan Kumar happily agreed to the contents of Ex. M-1 and Ex. M-2. Both the parties submitted that the reference in question may be disposed off accordingly.

12. I am satisfied that the parties have arrived at a just settlement. It shall bring an end to the long standing litigation.

13. In view of the contents of Ex. M-1 and Ex. M-2 placed on record on 28th October, 1987 and the statements of both the parties, it is held that termination of services of the workman Shri Krishan Kumar on 18th September, 1983 by the management was illegal and un-justified. The workman is held entitled for reinstatement with continuity in service and all other benefits. As per compromise the management has undertaken to take the workman back into job without back wages, but with all other benefit and continuity in service on the same terms and conditions on which he was in service. The workman shall be deemed to be taken back in service from the date he joins his duty. Both the parties have undertaken to abide by the above terms and conditions.

11. Reference is answered accordingly.

Dated 28th October, 1987.

K. K. DODA,

Presiding Officer,

Labour Court, Ambala.

Endstt. No. 2452, dated 30th October, 1987.

Forwarded (four copies), to the Commissioner & Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under Section 15 of I.D. Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab./9107.— In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management M/s. The Ambala Co-operative Marketing-cum-Processing Society, Ltd., Anaj Mandi, Ambala City.

BEFORE SHRI K.K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 48 of 1982

*between*

SHRI LABH SINGH, WORKMAN, SON OF SHRI JIWANNA RAM VILLAGE BHURANPUR,  
P.O. NANEYOLA, TEHSIL AND DISTRICT AMBALA AND THE RESPONDENT MGT.  
OF M/S. THE AMBALA CO-OPERATIVE MARKETING CUM-PROCESSING SOCIETY  
LTD., ANAJ MANDI, AMBALA CITY

## AWARD

In exercise of the powers conferred by clause (c) of section (1) of section 10 of the Industrial Disputes Act, 1947, Hon'ble Governor of Haryana referred the following dispute between Shri Labh Singh, workman and the respondents management of M/s. The Ambala Co-operative Marketing-cum-Processing Society Ltd., Anaj Mandi, Ambala City to this Court, for adjudication :—

Whether the termination of services of Shri Labh Singh was justified and in order ? If not, to what relief is he entitled ?

2. Workman's case set up by him in his demand notice dated 5th November, 1981 in brief, is that he had been serving under the management for the last six years but was terminated by the management illegally and without any justification, on 29th August, 1981. Earlier he was suspended on 14th May, 1981 without any fault on his part. He termed his termination as illegal, *mala fide* and arbitrary. He contended that no charge-sheet was issued nor any enquiry was held. No show-cause notice was issued to him before terminating his services. He prayed for reinstatement and continuity in service with full back wages.

3. Respondent management has contested in terms of written statement dated 6th July, 1982. Disclosed that the workman was suspended in a separate case regarding the F.I.R. which was lodged against him. Shri Labh Singh, workman was ordered by the Board of Directors to be chargesheeted and he was charge-sheeted. The workman was served with the charge-sheet and memo of allegations. List of witnesses was also furnished. Shri Labh Singh had submitted reply to the charge-sheet. The Board of Directors appointed an enquiry officer (L.S. Gill, Inspector). Enquiry was conducted. Enquiry Officer gave his report. Thereafter, Board of Directors passed resolution terminating the services of the workman, Labh Singh. Pleaded that the termination of the workman was just, valid and within the scope of powers of the Board of Directors. Admitted that Labh Singh was originally appointed as Peon in the Ambala Co-operative Marketing-cum-Processing Society Ltd., Anaj Mandi, Ambala City and later on was allowed to work as Sales man.

4. The then learned Presiding Officer, Labour Court, framed following issue on 6th August, 1982 for decision :—

(i) As per reference ?

5. As the record speaks, management examined Shri Tilak Raj Gupta, Assistant Manager. He produced documents Exhibit M-1 to Exhibit M-8 and the authorised representative of the management produced document Exhibit M-9 on record and closed management's evidence. Workman Shri Labh Singh appeared in the witness-box in his own evidence and produced in evidence Exhibit A-1 and Exhibit A-2. Management did not produce any rebuttal though opportunities were granted.

6. This case came up before me for the first time on 9th July, 1987 when it was pending for rebuttal and arguments.

7. Shri J. C. Sharma, Advocate represented the workman, Shri J.K. Gupta, Advocate, represented the management. Shri Tilak Raj Gupta, Assistant Manager also assisted Shri J. K. Gupta.

8. After having heard the learned representatives of both the parties and upon close scrutiny of entire oral as well as documentary evidence on record, I have come to this conclusion that the order of termination of services of the workman Shri Labh Singh is not sustainable in the eye of law. Main reason for my above observation is that the enquiry conducted against the workman was most unfair and improper. The workman has been denied of certain valuable rights during the enquiry proceedings. Exhibit M-4 is the list of charges against the workman Shri Labh Singh and along with it, there is list of allegations against him. These documents were sent to the workman,—*vide* letter No. 147, dated 2nd October, 1980 by the management. In brief, it was alleged that Labh Singh, while working as Salesman incharge fertilizer Cell at Pinjore Branch, managed to misappropriate Rs. 5,731.81 during the year 1978-79 from 31st December, 1977 to 26th January, 1978. He misappropriated this amount by collecting cash sales proceeds of fertilizers. Labh Singh, in his reply Exhibit M-3, stated that the charge was baseless and gave to under stand that those days there was great rush of work of distribution of fertilizers and the delay in depositing the amount occurred due to the seasonal additional work. Second charge was that Labh Singh managed to misappropriate Rs. 80.81 P. from the period 30th June, 1976 to 6th August, 1979, by withholding cash sale proceeds of 1-3-0 cattle feed. Labh Singh in his written reply stated that the stock remained lying at the Branch for two years and the bags got torned during this period, as the stock could not be sold. Due to bad condition of gunny bags the cattle feed had destroyed. More than 2/3 salesmen had handled the sale stock before his joining at the station. Third charge against the workman was that he misappropriated Rs. 851.80 from 30th June, 1979 to 6th August, 1979 Labh Singh had replied that physical verification was wrong and they had wrongly shown huge amount as outstanding against him. He had requested them for reconsideration, but of no avail. Finally an amount of Rs. 851.80 P. was found out standing against him and he had deposited the said amount forthwith. Fourth charge against him that he was not maintaining the records and was not performing his duties properly and that cash sale proceeds deposited did not tally with the record. Exhibit M-6 is the

record of proceedings prepared by the Enquiry Officer Shri L.S. Gill on 6th June, 1981. Along with these records there is report dated 13th July, 1981 submitted by the Enquiry Officer. Shri L. S. Gill (though this report has not been tendered in evidence but it is being considered and perused by me. It is manifestly clear from these two documents that the enquiry officer had not recorded statement of any witness on 6th June, 1981 or thereafter. This fact that no statement of any witness was recorded by the enquiry officer has been admitted by the learned representative of the respondent management. So much so that the management had not dared examining Shri L.S. Gill, who has allegedly conducted enquiry against the workman Shri Labh Singh. It is further clear from Exhibit M-6 and report of Shri L.S. Gill that physical verification report dated 23rd January, 1978 made by Shri Harcharan Singh, Inspector (Audit) and Vishnu Dutt Sharma, S.I. (Audit) was relied upon by him (Enquiry Officer). He had also relied upon the physical verification report dated 30th June, 1979 made by Shri Varyam Singh, Inspector (Audit). Admittedly, management had not examined Shri Harcharan Singh, Vishnu Dutt and Varyam Singh before the Enquiry Officer nor any of these persons has been examined by the management before this court. It clearly follows that the enquiry allegedly conducted against the workman was defective. Workman was not given proper and fair opportunity of hearing by the enquiry officer. He was not given any opportunity to cross-examine the aforesaid officials who had allegedly submitted their aforesaid physical verification reports, on which the enquiry officer has placed reliance while holding that charges against the workman stood proved. Another fact which is most clear from the above documents of the enquiry officer that the defence taken by the workman in his reply to the charges was not at all considered and discussed by the Enquiry Officer. It is further an admitted fact that the management had not given opportunity of hearing before passing an order of termination of his services. The Board of Directors ought to have heard its workman Shri Labh Singh before terminating him from service.

9. It is, thus, clear that the enquiry conducted against the workman was highly defective improper and against the principles of natural justice.

10. For the reasons recorded above, I have no other alternative but to hold that the order of termination of services of the workman Shri Labh Singh is illegal and unjustified.

Shri Labh Singh is certainly entitled for reinstatement with continuity of service.

11. Next question which needs to be considered whether or not the workman should be awarded full back wages I am of the view that the workman Shri Labh Singh should not be held entitled for full backwages. He should be awarded half of his back wages. Reasons are very few and simple. The workman had himself created confusion by depositing Rs. 851.80 P. as stated by him in his reply Exhibit M-3. He had suppressed this fact from the court that Assistant Registrar, Co-operative Society Yamuna Nagar had already passed an award of Rs. 13,337.35 P. against him and in favour of the respondent management (Copy Exhibit M-5). It is further an admitted fact that he was at one stage suspended by the management on 14th May, 1981, though on different charges. Respondent management is a Co-operative Society and I find no justification in burdening it with full back wages of the workman, especially when the workman had not worked during the intervening period.

12. In the result, it is held that the impugned order of dismissal of Shri Labh Singh is illegal and unjustified. He is held entitled to be reinstated with continuity service and half of his full back wages. The respondent management may recovery its decretal amount or dues from the workman out of the arrears of his half of his back wages, but in due course of law and procedure.

Dated 19th October, 1987.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

Endorsement No 2453, dated 30th October, 1987

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour Department and Employment Department, Chandigarh, as required under section 15 of Industrial Disputes Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.